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Case: **IPC-E-15-18**

Date: **8/14/2015**

Prepared by: **John Reuter**

Subject: **Site Based Energy Comments**

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Site Based Energy submits these comments on behalf of the individual Projects affects by Idaho Power's Petition to the Idaho Public Utilities Commission ("Commission"). The common comments are not intended to infer the projects are one common project, but rather have been prepared together in the interest of time and to better respond to the petition, which aggregated the Projects. Further, these comments were not prepared or reviewed by legal council and as such are not intended to be a legal analysis or based on expert testimony.

Facts:

Site Based Energy is a residential and commercial building energy efficiency and renewable energy design and installation company based in Ketchum, ID. We assist individual clients with energy reduction measures and renewable energy projects to reduce their energy costs. We provide design, permitting, procurement, and installation services to our clients and advise them on the options available for them with their local utility. Our geographic territory includes Southern Idaho, Northern Utah, and Eastern Oregon. Our annual revenues and employee count qualify us for the very small business designation by the US Small Business Administration.

Site Based Energy submitted complete applications on behalf of 10 solar PV projects with nameplate capacities of 100kW on June 15, 2015. The names of the individual projects are:

WRCE 1, WRCE 2, WRCE 3, WRCE 4, WRCE 5, WRCE 6, WRCE 7, WRCE 8, WRCE 9, and WRCE 10 ("Projects").

Each project application included all required documentation per the published tariff and Idaho Power application and have been included as part of Idaho Power's initial filing in the IPC-E-15-18 petition.

On June 26, 2015, Site Based Energy received a 1-page response from Idaho Power acknowledging our application submittal on June 15th, 2015 and indicating they were required to notify the applicant of any deficiency or indicative pricing by June 29, 2015. The letter also indicated Idaho Power filed a petition with the Commission on the same date, June 26th, 2015. The letter did not include indicative pricing and did not notify Site Based Energy of any deficiencies in their applications. The letter was attached as Exhibit 12 in Idaho Power's Petition.

As of the date of these comments, August 14, 2015, Idaho Power still has not provided indicative pricing and still has not notified Site Based Energy or the individual projects that they deem the applications to be deficient. It has been 33 days from the date Idaho Power is required to provide indicative pricing or notify the project owner of application deficiencies and 43 days since Idaho Power received the project applications.

Each project application specifically stated they would meet FERC requirements to be a Qualifying Facility (QF), have completely separate ownership, and would not be located within 1 mile of another project owned by the same owner.

Per Site Based Energy's Response to Staff's First Request, each project will be individually owned by completely separate owners that are individuals and businesses with ties to the Wood River Valley in Blaine County, ID.

Site Based Energy has performed several early stage project related functions as a consultant for the Projects, including site analysis, preliminary design and engineering, land lease negotiations, and preparation of 100kW solar PV applications submitted to Idaho Power.

The projects meet the requirements for Schedule 73 and provided a complete application with the requirements outlined in Order 33197.

The Commission recently issued order 33253 as part of IPC-E-15-01 that finds "it just and reasonable that the temporary five-year term limit not apply to new



PURPA contracts eligible for published rates.” Idaho Power’s response “conceded that its requested interim relief is limited to transactions with proposed QF projects that exceed the published rate eligibility cap.”

On July 2, 2015, Idaho Power filed IPC-E-15-20 to modify the first capacity deficit for avoided cost calculations from July 2021 to June 2024.

The Projects have not changed materially since the initial application was submitted.

Discussion:

Project History:

Site Based Energy is a small Idaho business serving small and medium sized clients primarily in Idaho to help them reduce their energy costs through cost effective implementation of energy efficiency measures and renewable energy generation. We are very active in the Wood River Valley with many renewable energy installations currently in operation and several more under signed contract. Recently, several of our clients have indicated they would like to own a system that may not fit the requirements for on-site generation on their existing properties or net metering. Reasons we have received vary, but commonly include aesthetics, available non-shaded roof or ground space, homeowner association requirements, financial viability, and low energy consumption limiting net metering size capacity.

Site Based Energy has familiarity with the options available for small-scale renewable energy generation to receive payments for power produced in Idaho Power’s territory, net metering and Schedule 73. SBE proposed to these clients that we could meet their goals by building several projects at the same time in the same location and using Idaho Power Schedule 73 published rates as the Idaho Power program that best met their needs. To keep costs low for each project owner, we co-located the projects on a harvested gravel pit to utilize land with low remaining value and enjoy economies of scale by building at the same time. We then submitted complete applications on behalf of each project to Idaho Power on June 15, 2015.



On June 26th, 2015, 1 business day before the projects were supposed to receive indicative pricing, we received an email from Idaho Power that did not include indicative pricing and did not indicate the Project's applications had deficiencies. Instead, it indicated Idaho Power was considering the 10 individual projects to be one single larger project with several inaccurate and incorrect assumptions. This was the first and only response or contact SBE received from Idaho Power in regards to the Projects.

Site Based Energy reached out to legal counsel to determine their options to move forward, retained Joe Miller of McDevitt-Miller, and requested a meeting with Idaho Power to provide additional information on the projects and answer questions. We would note that Idaho Power still hadn't requested additional information, noted the applications were deficient, or provided indicative pricing. In particular, we completely disagreed with Idaho Power's assumption and claim that the projects were a disaggregated larger project. Our understanding of disaggregation is having one large project owned by one entity disaggregating the project into smaller projects to qualify for published rates. The key component is having one owner breaking a project up to beat rules that govern larger projects. During our meeting with Idaho Power, we explained that these were, in fact, individual projects owned by completely separate owners that were co-building with other project owners. Further, we indicated each project application should be considered independently on its merits and if each project application were considered on its own, it would meet the rules published by the PUC. I don't want to divulge the details of that meeting due to the confidential nature of the meeting, but our clients' primary goal was to get Idaho Power to pull their petition since they had incorrect assumptions and conclusions regarding the nature of the individual applications. Idaho Power declined that request and indicated they wanted the Commission to provide a decision on their Petition.

As of the date of this filing, Idaho Power has not pulled their petition and still hasn't provided any evidence to each project that they have deficiencies in their application, or that they do not meet program requirements, and has not provided indicative pricing.

Response to Idaho Power's Petition:



Idaho Power's petition was based solely on the applications submitted to Idaho Power on June 15, 2015 without any request for additional information sent to the Projects.

It is outside of our experience to comment on their claims regarding contract length, so we have limited our comments to refuting Idaho Power claims, correcting incorrect assumptions, and pointing out inconsistencies.

On page 3 of the Idaho Power Petition:

"Contemporaneous with the filing of this Petition, Idaho Power sent its response letter to Site Based Energy, as required within ten business days of receipt of the Schedule 73 application, informing Site Based Energy of this filing. See Attachment No. 12, attached hereto and incorporated herein by this reference."

The language of the tariff does not require a response letter. It requires indicative pricing or a notice of deficiency. Idaho Power noted those required items but provided neither.

On Page 3 of the Petition, Idaho Power's main argument for consideration of a single larger project is the assumption that a single larger project has been disaggregation into smaller projects. This is patently false and is not reflective of the applications submitted. Each application is for an individual project, owned by individual and separate owners. A similar scenario would be 10 homeowners with homes adjacent to each other, or in the same neighborhood, that contracted with a single solar installer to each install a solar PV array at the same time to get better installation pricing from their installer.

On Page 3 of the Idaho Power Petition:

"Here, Site Based Energy has specifically designed and proposed its project-disaggregated into 100 kW increments-in an attempt to avoid application of the Commission's interim order limiting the maximum contract term to five years."



Idaho Power has made an incorrect and wild accusation in regards to the projects intent without reaching out to the project owners to ascertain their intent. We've shared with Idaho Power the project owner's intent during our in person meeting and have also spoken to the project owners' intent in the Project History of these comments. A similarly wild accusation Site Based Energy could make is that Idaho Power does not want to comply with the Commission rules and orders and has filed this petition to delay and obstruct Projects that they know comply with the current commission approved tariffs and issued orders with the intent of killing the projects and setting precedent that Idaho Power will not act in good faith in the future as a means of hindering future project applications by other parties.

On Page 4, Idaho Power notes the projects are located on contiguous property. This is irrelevant to the petition's request for judgment as each project will be on it's own property and each owner will not own more than one project at the same site. Site Based Energy is not aware of any FERC or Commission rules regarding the proximity of separately owned projects as long as different parties separately own each projects.

On Page 4, Idaho Power notes they have not been provided with evidence of separate ownership for the Projects. As noted, Idaho Power did not and has not requested this information. In addition, evidence of ownership is not required in Schedule 73 or the application. If Idaho Power had asked, we would have supplied information on ownership and during our meeting we indicated that each project would have a separate owner listed on the ESA at the time of execution.

Harm to the Projects:

Based Energy feels the burden placed on Projects through Idaho Power actions should be part of the record, even if they do not directly address the petition. The reason for this is the continued Idaho Power practice of failing to negotiate or work with counterparties for PURPA related issues prior to filing Petitions with the Commission. Recent examples include net metering, PURPA term limits (Idaho Power did let parties know their were filing a Petition but did not negotiate or release details beforehand), and this Petition. It is our hope that we can continue to comply with existing rules and regulations without having to expect every action will result in unilateral Idaho Power actions at the Commission requiring capital constrained private companies to participate in a lengthily, costly process



with no chance for recovery of the funds we expend to participate. This is especially true when the counterparty, Idaho Power, is one of the largest private companies in the state of Idaho with in-house legal, in house experts, lobbyists, and the ability to cost recover from rate payers for expenses related to cases such as this. If there ever were a David vs. Goliath moment, it would be 10 individual project owners with relatively small individual Projects facing off against a publicly traded, entrenched utility with relatively unlimited resources.

Significant harm to the Projects have resulted from the Idaho Power petition, both in short term monetary terms, time to completion terms, internal man-hours, and long term project economics. The harm to the projects can be broken down into three categories: Contract Delay, Burden on the Projects to respond to the Petition, and long term financial harm to the Projects

The Petition has caused a delay in the Project's ability to receive indicative pricing and execute a contract. This has caused the Projects to suspend the interconnection process, design and permitting efforts, and has caused the Project completion deadline to be extended by at least 2 months. The funds and man-hours spent to date are considered sunk costs and the ability to meet Project deadlines has been severely challenged.

The Petition has unduly burdened the Projects by requiring a response to ensure the record is complete and accurate. The burden has primarily been financial; both in external costs and internal costs that we estimate will total approximately \$15,000 by the time the Petition process is complete, which we can not recover, even in the event the Commission orders the projects qualify for 20 year terms. Further, the Petition has burdened Site Based Energy by forcing Site Based Energy to expose components of our business model and operations that our competitors will likely use to their advantage.

The long term financial harm to the project is due to the impact on the rates the Projects could have received if indicative pricing were given on June 29, 2015 and the potential that these projects may not get built due to the delay until after federal tax credits expire at the end of 2016. Idaho Power filed their petition to change the capacity deficient deficit from July 2021 to June 2024 on July 2, 2015. This will result in projects seeking SAR or IRP methodology to not receive payment for capacity for an additional 2 years and 11 months. This will reduce the long-



term financials for the Projects by approximately 30% in payments for the 35 months since it is extremely unlikely this case will be resolved before the capacity period deficit petition is resolved and Idaho Power publishes new avoided costs rate schedules. However, if Idaho Power had provided indicative pricing and standard contracts were used, the Projects would have had executed contracts before the capacity deficit changed. The second potential harm is the loss of federal tax credits if the projects aren't completed by the end of 2016. Every delay to a project causes the Projects to potentially miss the cut off and has a direct burden of 30% to the projects.

Conclusion and Requests:

WRCE 1-10 have complied with all required rules required per Schedule 73 and have submitted complete applications. Each project is a standalone project, is completely separately owned, and is seeking a PURPA contract via Schedule 73 and requested non-levelized, non-fuel rate methodology with 20-year terms.

Further, WRCE 1-10 have not received either indicative pricing or a notice of deficiency per the procedures outlined in Schedule 73 and have waited 43 business days from the date of application to the time of comment submittal.

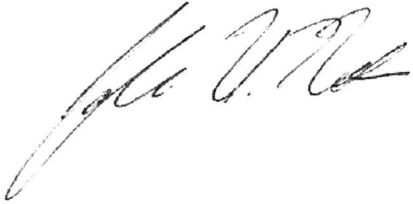
Idaho Power has not provided any evidence that indicates any of the Projects have not complied with current rules and procedures or that the applications were incomplete. Further, they have refused to comply with the rules and procedures and instead have filed a Petition with the Commission that unduly burdens both the Projects as well as a very small Idaho based business, Site Based Energy through delay.

The Projects request the Commission direct Idaho Power to immediately provide indicative pricing with 20-year terms and to direct Idaho Power to act in good faith and without further delay during contract negotiations.

Further, Site Based Energy request the Commission direct Idaho Power to negotiate in good faith for projects that submit applications and seek clarification for deficiencies or other misunderstandings before filing for relief with the Commission in the future.



Finally, both the Projects and Site Based Energy request an expedited decision with clear order on these Projects so they may continue the contract negotiation process.



**John Reuter, Solar Director
Site Based Energy**

8/14/15

Date

